

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

BRIAN L. BROWDER

APPELLANT,

**v.
STATE OF MISSOURI**

RESPONDENT.

DOCKET NUMBER WD71438
DATE: August 3, 2010

Appeal From:

Saline County Circuit Court
The Honorable Dennis A. Rolf, Judge

Appellate Judges:

Division One: James M. Smart, Jr., Presiding Judge, Mark Pfeiffer and Cynthia L. Martin,
Judges

Attorneys:

Ellen H. Flottman, Columbia, MO, for appellant.

Shaun J. Mackelprang and Jamie P. Rasmussen, Jefferson City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

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WESTERN DISTRICT**

BRIAN L. BROWDER,

APPELLANT,

v.

STATE OF MISSOURI,

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No. WD71438

Saline County

Before Division One Judges: James M. Smart, Jr., Presiding Judge, Mark Pfeiffer and Cynthia L. Martin, Judges

Brian Browder appeals from the trial court's judgment denying his Rule 24.035 motion for post-conviction relief. Browder contends his conviction for the class C felony of making a terrorist threat, section 574.115, should be vacated because his guilty plea was not supported by an adequate factual basis.

AFFIRMED.

Division One holds: (1) A factual basis for Browder's guilty plea was established when Browder confirmed that he committed the offense after the trial court recited the precise elements of the charge against him. Browder expressly affirmed that he was guilty of the offense of making a terrorist threat by virtue of having engaged in conduct that communicated a threat to cause an incident or condition involving danger to life with the purpose of frightening ten or more people. The particulars of the threat made by Browder were explored by the trial court and confirmed by Browder. Browder confirmed that his trial counsel had specifically discussed the charge and evidence against him prior to his appearance for his guilty plea hearing.

(2) The meaning of the phrase "threat involving danger to life" is readily apparent, such that Browder's admission that he engaged in conduct involving such a threat, and his specific admission that he "threatened to kick someone's ass," are sufficient to establish a factual basis for Browder's guilty plea.

(3) The requisite intent required for a conviction in Browder's case was the intent to engage in prohibited conduct with the purpose to frighten ten or more people. Browder expressly admitted this was his purpose.

Opinion by: Cynthia L. Martin, Judge

August 3, 2010

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